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EDWARD BENNETT WILLIAMS (1920-1988)
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March 20, 2017

Via Email

The Honorable Analisa Torres
United States District Judge
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007
Torres_NYSDChambers@nysd.uscourts.gov

Re: *United States v. Zukerman*, No. 16 Cr. 194 (AT)

Dear Judge Torres,

We write on behalf of Morris Zukerman in response to the government's puzzling, and potentially misleading, March 17, 2017 letter (Dkt. No. 56). Although the letter seems to imply that Mr. Zukerman's reporting of an additional $17 million in income should enhance his sentence, the facts—well known to the government—show precisely the opposite. These tax filings, prepared in accordance with the plea agreement, demonstrate Mr. Zukerman's commitment to report and to pay taxes even in excess of amounts identified and calculated by the government.

It is undisputed that Mr. Zukerman caused the timely and accurate filing of all new and amended tax returns called for in paragraph 4 of his plea agreement. That work was completed on February 28, 2017, and Mr. Zukerman has already caused to be paid all of the taxes associated with those returns. The government makes the unremarkable assertion that those returns "reported over $17 million of income that previously had gone unreported to the Internal Revenue Service by Zukerman and a family member." Dkt. No. 56 (Mar. 17, 2017). But this particular income should have come as no surprise to the government, as it is largely—if not entirely—the simple consequence of transferring proceeds from the Penreco sale outside of the MEZCO corporate structure, and not new, previously undisclosed conduct.

In short, Mr. Zukerman's reporting of this additional income is not a reason to enhance his sentence. To the contrary, it demonstrates Mr. Zukerman's sincere commitment to comply scrupulously with the terms of his plea agreement; to ensure the complete accuracy of all filed tax returns; and to make full restitution. Mr. Zukerman has already caused to be paid all of the additional taxes owed on this income.

The government also quotes in its letter an excerpt from the sentencing hearing in *United States v. Joseph Ciccarella*, No. 16 Cr. 738 (AKH). Needless to say, the Guidelines' recommendation in that case, and the 18-month sentence ultimately imposed by Judge Hellerstein, was well below the Guidelines range at issue here. Further, as counsel for the government himself observed at that sentencing hearing, "there are nuances in cases, and I understand that people sitting in my position right here don't have credibility with the Court if we come in and we just say in every case[,] 'you must impose a guideline sentence.'" Dkt. No. 56 (Mar. 17, 2017), Ex. A at 13:23–14:3. We have tried to present to the Court the nuances in this case, to ensure that Mr. Zukerman receives a fair and appropriate sentence.

Respectfully submitted,

James Bruton (DMAH)

James A. Bruton, III

cc: Stanley J. Okula, Jr., AUSA